

STATE OF UTAH INSURANCE DEPARTMENT
REPORT OF MARKET CONDUCT EXAMINATION
of

BEAR RIVER MUTUAL INSURANCE COMPANY

778 East Winchester
Salt Lake City, Utah 84157

NAIC Company Code Number: 13471

as of
June 30, 1996

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April 28, 1997

Honorable Merwin U. Stewart
Insurance Commissioner
Utah Insurance Department
State Office Building, Room 3110
Salt Lake City, Utah 84114

In accordance with your instructions, an examination has been made of the market conduct practices of

BEAR RIVER MUTUAL INSURANCE COMPANY
Salt Lake City, Utah

a property and casualty insurer, hereinafter referred to in this report as the Company, as of June 30, 1996. The report of such examination is herein respectfully submitted.

FOREWORD

The market conduct examination report is, in general, a report by exception. Reference to Company practices, procedures, or files subject to review may be omitted if no improprieties are indicated.

SCOPE OF EXAMINATION

This examination was conducted by an examiner representing the Utah Insurance Department in accordance with the Model Market Conduct Examination Handbook of the National Association of Insurance Commissioners and Utah Code Annotated (U.C.A.) 31A-2, Administrations of the Insurance Laws. The period covered by the examination was January 1, 1990 to June 30, 1996. Where considered appropriate, transactions of the Company prior and subsequent to the examination period were reviewed.

The purpose of the examination was to determine the Company compliance with the Utah Insurance Code (U.C.A. 31A), and Utah Insurance Department Rules applicable to U.C.A. 31A, and to determine if Company operations were consistent with public interest.

COMPANY PROFILE

History

The Company was organized August 21, 1909, as a property-liability insurer under the name of Bear River Mutual Fire Insurance Company. On July 8, 1939, the Company changed its name to Bear River Mutual Insurance Company.

Affiliated Companies

The Company has no affiliations with other Companies.

Territory and Plan of Operations

Operating Jurisdictions:

The Company has a certificate of authority to transact the business of (1) property insurance, (2) liability insurance, including vehicle, excluding disability, and (3) vehicle liability insurance only in the State of Utah.

Market Approach:

The Company markets its products through an independent agent sales force numbering about fifty-seven active agents and agencies. Agents have limited binding authority, subject to review and approval of the risk by the Company. Very little advertising is done by the Company. The advertising materials are limited to telephone book listings and small promotional items of minimal cost.

Major Lines of Business:

As of June 30, 1996, approximately forty-nine thousand six hundred forty policies were in force throughout the state, consisting of approximately twenty-five thousand eight hundred ninety-six automobile policies, twenty thousand one hundred forty-eight homeowner policies, and three thousand five hundred ninety-six dwelling policies. Coverages available through these property and casualty products offered by the Company include the following:

- Automobile Insurance Policy:
 - Liability:
 - Bodily Injury
 - Property Damage
 - Personal Injury Protection
 - Uninsured Motorist
 - Underinsured Motorist
 - Comprehensive
 - Collision
 - Towing & Emergency Road Service
 - Car Rental Expense
 - Extra Equipment
- Homeowner Insurance Policy:
 - Dwelling
 - Appurtenant Structures
 - Unscheduled Personal Property
 - Additional Living Expenses
 - Personal Liability
 - Medical Payments to Others
- Dwelling Insurance Policy:
 - Fire
 - Extended Coverage
 - Other Allied Lines

Policy Forms

The Company uses Insurance Services Office (ISO) policy forms for its homeowner and dwelling fire policies. Homeowners form edition 4-84 is the primary form used for the homeowner program and dwelling property form edition 7-88 for the dwelling fire program. The Company has developed its own form for its personal automobile policy.

Reinsurance

The Company assumes a two percent share of the "Regional Reciprocal Catastrophe Pool" from the Mutual Reinsurance Bureau, an unincorporated association of six mutual insurance companies. The Company is liable for a two percent pro rata share of the net liability of the Mutual Reinsurance Bureau on any one aggregate or excess loss contract (or similar cover) assigned to the catastrophe pool. Any one agreement will not exceed a net risk of \$5,000,000.

The Company's ceded reinsurance program is placed with and administered by the Mutual Reinsurance Bureau, an unincorporated association of mutual insurance companies established for the purpose of facilitating the making of reinsurance contracts between member companies and other insurers. Pursuant to the agreements, all reinsurance ceded is severally and jointly assumed proportionately by two member companies which are licensed insurers in the State of Utah.

Under an Obligatory First Surplus Agreement, on property risks in excess of the Company's maximum retention of \$75,000 per risk, the reinsurer accepts a pro rata portion of the first dollar risk up to a single assumed limit of \$300,000 for home owners policies and amounts not to exceed \$400,000 for all other property risks. Under a Per Risk Excess of Loss Agreement, the Company's losses, net of the first surplus coverage, are each insured up to \$75,000 in excess of \$75,000, as respects any one risk, each loss occurrence. The coverage is further limited to an aggregate of \$225,000 as respects any one loss occurrence. Under a Catastrophe Excess of Loss Reinsurance Agreement, the Company's catastrophe retention is \$500,000 with the reinsurer accepting catastrophe risk aggregating an additional \$6,500,000 any one loss occurrence. The aggregate limit of the reinsurer's liability for the annual term of the agreement is \$13,000,000.

Under a Casualty Excess of Loss Agreement, casualty risks in excess of \$75,000 per risk are insured up to a maximum limit of \$1,925,000 for any one occurrence. Under the agreement, the Company warrants that the maximum bodily injury liability limits written will not exceed \$500,000 any one occurrence.

Company Growth

Due to the Company's continued growth, the Company moved on March 24, 1995 from its former approximately nine thousand five hundred square foot building in Salt Lake City, Utah to its new fifteen thousand square foot building in Murray, Utah. The growth in gross premiums written for the Company for the past six years is reported in table on the following page. Numbers reflected in the table were taken from the Company's filed annual statements.

Gross Premiums Written				
	Liability Lines	Property Lines	Property and Liability Combined Lines	Total Lines
1995	\$11,776,447	\$6,656,299	\$5,530,212	\$23,962,958
1994	11,205,956	6,640,619	4,853,162	22,699,738
1993	10,361,695	6,670,957	4,263,987	21,296,639
1992	7,911,244	6,788,321	3,946,014	18,645,579
1991	6,266,255	6,188,071	3,413,339	15,867,665
1990	5,508,111	5,332,538	3,066,448	13,907,097

PREVIOUS EXAMINATION FINDINGS

The previous market conduct examination report as of December 31, 1989 and financial examination report as of December 31, 1992 were reviewed. Company responses to the findings and recommendations of the market conduct examination report were also reviewed. All of the recommendations were addressed by the Company and corrective actions were taken with regard to all but one of the recommendations. It was recommended in the previous market conduct examination that the Company formalize in writing its claim processing/handling procedures, as the Company did not have a written claims procedures manual. In response to that recommendation, the Company began to develop a claims procedures manual. However, the Company did not complete the development of the manual and has failed to formalize in writing its claim processing/handling procedures.

CURRENT EXAMINATION FINDINGS

Company Operations/Management

General:

Company policies and procedures manuals were requested with regard to each of the areas reviewed during the examination process. Policies and procedures manuals were not in place for several of the areas examined. Otherwise, Company records were generally adequate, consistent and orderly and were in compliance with the insurance laws and rules of this state, except as otherwise noted in this report.

Certificates of Authority:

The Company's Certificate of Authority was reviewed and found to be current. The Company is operating within the parameters of its Certificate of Authority.

Internal/External Audits:

The Company primarily uses external auditors in its audit program due to the relatively small size of the Company and its staff. External audits are performed at least annually and the audit reports and findings are presented to the Company's Audit Committee and to the Board of Directors for review and implementation of any needed changes or corrections as a result of the audits. Some internal audit functions are also performed by Company management.

Anti-Fraud Plan:

The Company does not have a formal written anti-fraud plan in place. However, the Company has implemented various measures to fight against fraud, such as the use of anti-fraud educational materials and seminars, private investigations, medical examinations, credit bureau reports, membership in and reporting to Property Index Loss Reporting (PILT), the Medical Index Bureau (MIB) and reporting to the National Insurance Crime Bureau (NICB).

Disaster Recovery Plan:

The Company has an emergency preparedness and disaster recovery plan and is in process of formalizing it into a written comprehensive plan. There is already a written plan for evacuation of the building and various emergency preparedness and disaster recovery measures have been implemented by the Company.

Computer Information/Data Security:

The Company's computer information/data security systems were reviewed. The Company has appropriate controls and safeguards in place for protecting the integrity of computer information, although there are no written guidelines for the security procedures being implemented.

Consumer Complaints

Complaint registers of the Company's consumer direct and Utah Insurance Department complaints were requested for review. Although the Company does maintain a complaint register of consumer complaints filed with the Utah Insurance Department for which the Company has received inquiries, it does not maintain a register of consumer direct complaints.

There have been a total of seventy-six consumer complaints filed against the Company with the Utah Insurance Department during the examination period, of which thirteen were listed as justified complaints. All consumer complaints filed during 1994 through June 30, 1996 were reviewed. All justified complaints filed during 1990 through 1993, as well as four other complaints filed during each of those years were also reviewed. The following table shows the population breakdown of the consumer complaints filed against the Company, by year. A second

Marketing and Sales

Company products are marketed to prospective purchasers through non-captive outside independent agents. There are approximately seventy-five active independent agents or agencies representing the Company throughout the State of Utah. Because the Company markets only through outside independent agents and does very little advertising, it does not utilize sales training materials for its producers. Company advertising is limited to telephone book listings and small promotional items of minimal cost, such as baseball caps, calendars and pens. Company marketing and sales materials were reviewed, including application forms and the limited promotional items used by the Company. No discrepancies were noted as a result of this review.

Producer Relationships

The Company utilizes independent agencies and agents to market its products. It does not utilize managing general agencies, general agencies or third party administrators. The Company provided a list of the producers currently contracted and appointed by the Company. This list was compared with the Utah Insurance Department list of producers appointed with the Company. In connection with this comparison, also reviewed were the Company's producer contract files, producer contract language, effective dates of business produced, and Company commissions paid to producers. No material discrepancies were noted as a result of this comparison and review.

Company Forms/Required Filings

The Company's forms and required filings were reviewed, including policy forms, endorsements, application forms and rates. Company forms and filings were compared with Utah Insurance Department filings. Three of the forms reviewed were not filed by the Company prior to their use. Failure to file a form prior to its use is a violation of U.C.A. Subsection 31A-21-201(1).

A control list of Company forms and other required filings filed by the Company with the Utah Insurance Department was requested for review. The Company does not maintain a control list of filings filed with the department.

Underwriting/Rating

General:

The Company's written underwriting policy and procedure guidelines and the underwriting practices of the Company were reviewed. The Company underwrites personal lines automobile, homeowners and dwelling fire policies. Through its automobile policies, coverage is provided for personal cars, trucks, vans, motor homes and trailers. Its homeowners policies provide coverage for 1955 or newer owner occupied homes and condominiums, and for secondary dwellings in protected areas. Through the Company's dwelling fire policies, coverage is provided for 1945 or newer owner occupied homes and single, duplex, or four-unit rental

properties. Dwellings built prior to 1945 must be submitted subject to approval and inspection. Agents have limited binding authority, subject to review and approval of the risk by the Company.

The Company limits its liability through the use of policy limitations and exclusions, and through the use of investigative consumer reports, including credit reports. The Company does not accept applications from applicants who admittedly uses alcoholic beverages. A variety of deductible options are offered by the Company. Also available are various discounts, including claim free, multi-policy, second car, age 55 or over, and driving course certificate discounts for automobile policies, and non-smoker, newer home, and multi-policy discounts for homeowner policies. No discounts are available for dwelling fire policies.

Rates, rating plans, and rating practices and of the Company were reviewed. The Company's rates and rating plans have been properly filed with the Utah Insurance Department and were being adhered to during the examination period. No discrepancies were noted in Company's application of its rates or rating plans. Rate plan changes recommended in the previous market conduct examination report have been implemented by the Company.

Underwriting File Review:

Automobile, homeowners and dwelling fire policy population counts were provided by the Company. Policy files were randomly selected from the population data provided. Due to a computer imaging conversion process the Company was going through at the time of the examination, some of the sample files requested were unavailable for review, as pertinent records necessary for the review could not be brought up on the computer screen. The population of policies issued during the examination period and the sample selected, reviewed, and unavailable for review from that population are shown in the table below, broken down by policy type.

Policy Type	Population of Policies Issued	Sample Selected for Review	Sample Reviewed	Sample Not Available for Review
Automobile Policies	20,953	40	32	8
Homeowners Policies	17,631	40	30	10
Dwelling Fire Policies	3,207	20	14	6
Total Policies	41,791	100	76	24

The Company also provided population data of denied applications, canceled policies and policies which were non-renewed during the examination period, from which random samples were randomly selected for review. The populations and samples selected, reviewed and unavailable for review from those populations are shown in the following table, broken down by

category.

Category	Population	Sample Selected for Review	Sample Reviewed	Sample Not Available for Review
Declined Applications	7,084	25	17	8
Canceled Policies	15,278	25	23	2
Non-Renewed Policies	956	25	22	3
Combined Total (Declined, Canceled and Non-Renewed)	23,318	75	62	13

Review of Issued Policies:

The Company's written underwriting guidelines require that the automobile application be complete. Twenty one applications had discrepancies in the section pertaining to the binding of coverage. In response to the question, "Was Coverage Bound?", nine applications were marked "yes", but the date and time of binding coverage was not entered, two applications were marked "yes" with the date entered, but the time was not entered, four applications were marked "yes" with the time entered, but the date was not entered, and six applications had no response to the question and no date or time was entered.

According to the Company's written underwriting guidelines, the homeowners application is to be signed by the named insured, certifying that the statements on the application are complete and correct. However, in at least four cases, the application form was not signed or dated by the named insured, with no remarks or explanation as to why this was not completed.

Review of Declined, Canceled, and Non-Renewed Policies:

All declined, canceled and non-renewed policies were handled properly and in a timely manner by the Company. No material discrepancies were noted with respect to the policies reviewed.

Policyholder Service

One hundred seventy-five policyholder files were randomly selected for review. Fourteen of the files selected were unavailable for review due to a computer imaging conversion process the Company was going through at the time of the examination. One hundred sixty-one policyholder files were reviewed with regard to policyholder service and treatment, including a review of notices, billings, delays, no response, coverages, endorsements, premium administration and refunds, and reinstatements. Policyholder service was generally timely and correct. No discrepancies related to policyholder service were encountered as a result of this review.

Claims

General:

Claims for the Company's automobile, homeowner and dwelling fire products are processed directly by the Company. The claims are handled by the Company's adjusters according to their various areas of specialty, which consist of bodily injury liability claims for all lines, personal injury protection claims, automobile property damage claims, and homeowner and dwelling fire property damage claims.

Claim File Review:

The Company processed fifty-five thousand five hundred seventy-two claims during the examination period, of which twenty thousand seven hundred fourteen were processed since January 1, 1994. A sample of one hundred-five of these more recent claims, consisting of seventy-five automobile claims, twenty-five homeowner claims and five dwelling fire claims, were randomly selected and reviewed. The population and sample statistics shown in the table on the following page were generated from those claims.

Claims Population

Year	Automobile Claims	Homeowner Claims	Dwelling Fire Claims	Total Claims
1990	5848	2145	211	8204
1991	6321	2514	206	9041
1992	6197	1996	154	8347
1993	6331	2735	200	9266
1994	5916	2074	152	8142
1995	6058	2151	152	8361
To 6-30-96	3180	978	53	4211
Sub-Total of 1-1-94 to 6-30-96	15154	5203	357	20714
Total of 1-1-91 to 6-30-96	39851	14593	1128	55572

Claims Sample Selected and Reviewed

Year	Automobile Claims	Homeowner Claims	Dwelling Fire Claims	Total Claims
1994	29	11	1	41
1995	31	9	3	43
To 6-30-96	15	5	1	21
Total of 1-1-94 to 1-1-96	75	25	5	105

Eighty-five percent of the Company's claims reviewed met the Utah Insurance Department's guideline of settlement within thirty days of receipt of the claim. The Company's average calendar days from receipt of the claim until settlement was twenty-two days. Those claims which were not settled within thirty days required additional research time to investigate and adjudicate the claim. In four of those cases in which the investigation was not completed within thirty days, the Company failed to communicate with the claimant at least every thirty days until the claim was either paid or denied. This failure to properly communicate with the claimant at least every thirty days is a violation of U.A.C. Subsection R590-89-12.B.

U.A.C. Subsection R590-89-10.A. requires acknowledgment of claims not settled within fifteen days of receipt. Ninety-nine percent of the claims reviewed met this requirement.

Several of the claim files reviewed were not adequately documented. In thirty three cases, although the claims were paid in a timely manner, there was no documentation of the date payment of the claim was approved. In three cases, although the claims were paid in a timely manner, there was no documentation of the approval for payment of the claim. Date stamping has been implemented by the Company. However, five claim files reviewed contained no documents that were date stamped. In one of those files, the claim activity log notes were incomplete and it was difficult for the examiner to follow the rationale for the adjudication of the claim. A log note dated April 10, 1995 indicates the insured would get a repair company estimate and be in, then a subsequent log note dated May 23, 1995 indicates the file was being closed due to no response. However, a repair company estimate dated May 12, 1995, which was not date stamped, was located in the file, with no reference as to its receipt in the log notes and no explanation as to why the claim for \$372.35, based on the estimate, was not paid. Failure to adequately document the claim file is a violation of U.A.C. Section R590-89-8.

In thirteen glass loss claims reviewed in which the glass was repaired, the Company waived the insureds deductible. Although it is not a written procedure, the Company's practice is to waive the deductible when an insured chooses to have the glass repaired rather than replaced. However, waiving the insured's deductible is not a benefit specified in the policy. Therefore, some insureds may not be aware this benefit is available to them.

SUMMARIZATION

Summary

Comments included in this report which are considered to be significant and requiring special attention are summarized below:

1. Company policies and procedures manuals were requested with regard to each of the areas reviewed during the examination process. Policies and procedures manuals were not in place for several of the areas examined. The examiner recommends the Company prepare policies and procedures manuals covering all areas of Company operations.

(OPERATIONS/MANAGEMENT)

2. According to the optional binding arbitration provision language contained in the Company's Non-Assessable Motor Vehicle and Auto Policy, an insured, at the election of the Company, could be precluded from seeking a resolution on a matter in dispute through a small claims court. Optional binding arbitration provisions containing language construed to preclude any dispute resolution by any small claims court having jurisdiction is a violation of U.A.C. Subsection R590-122-4.6. The examiner recommends the Company change the language in its

optional binding arbitration provisions to specifically not preclude dispute resolution by small claims courts having jurisdiction. **(CONSUMER COMPLAINTS)**

3. Company procedure is to date stamp Utah Insurance Department inquiries as they are received by the Company. In seven cases, the Company failed to date stamp the inquiries upon receipt. The examiner recommends the Company review and/or implement quality control procedures to ensure all inquiries are date stamped as they are received by the Company. **(CONSUMER COMPLAINTS)**

4. Although the Company does maintain complaint registers of consumer complaints filed with the Utah Insurance Department for which the Company has received inquiries from the department, it does not maintain a register of consumer direct complaints. The examiner recommends the Company prepare and maintain a register of complaints received directly from consumers. **(CONSUMER COMPLAINTS)**

5. Three of the forms reviewed were not filed by the Company prior to their use. Failure to file a form prior to its use is a violation of U.C.A. Subsection 31A-21-201(1). The examiner recommends the Company review and/or implement quality control procedures to ensure all forms are properly filed in accordance with statutory requirements. **(COMPANY FORMS/REQUIRED FILINGS)**

6. A register of Company forms and other required filings filed by the Company with the Utah Insurance Department was requested for review. The Company does not maintain a control list of filings filed with the department. The examiner recommends the Company prepare and maintain a control list of Company forms and other filings filed with the Utah Insurance Department. **(COMPANY FORMS/REQUIRED FILINGS)**

7. Twenty-one applications had discrepancies in the section pertaining to the binding of coverage. In response to the question, "Was Coverage Bound?", nine applications were marked "yes", but the date and time of binding coverage was not entered, two applications were marked "yes" with the date entered, but the time was not entered, four applications were marked "yes" with the time entered, but the date was not entered, and six applications had no response to the question and no date or time was entered. The examiner recommends the Company review and/or implement quality control procedures to ensure all binding information is properly completed in the automobile application form. **(UNDERWRITING/RATING)**

8. According to the Company's written underwriting guidelines, the homeowners application is to be signed by the named insured, certifying that the statements on the application are complete and correct. However, in at least four cases, the application form was not signed or dated by the named insured, with no remarks or explanation as to why this was not completed. The examiner recommends the Company review and/or implement quality control procedures to ensure all required signatures are completed in the homeowner application forms. **(UNDERWRITING/RATING)**

9. In four of the claims reviewed in which the claim investigation was not completed within thirty days, the Company failed to communicate with the claimant at least every thirty days until the claim was settled. Failure to properly communicate with the claimant at least every thirty days until the claim is either paid or denied is a violation of U.A.C. Subsection R590-89-12.B. The examiner recommends the Company review and/or implement quality control procedures to ensure compliance with this requirement. **(CLAIMS)**

10. Several of the claim files reviewed were not adequately documented. In thirty-one cases, although the claims were paid in a timely manner, there was no documentation of the date payment of the claim was approved. In three cases, although the claims were paid in a timely manner, there was no documentation of the approval for payment of the claim. Date stamping has been implemented by the Company. However, five claim files reviewed contained no documents that were date stamped. In one of those files, the claim activity log notes were incomplete and it was difficult for the examiner to follow the rationale for the adjudication of the claim. Failure to adequately document the claim file is a violation of U.A.C. Section R590-89-8. The examiner recommends the Company review and/or implement quality control procedures to ensure all claim files be adequately documented by the Company. **(CLAIMS)**

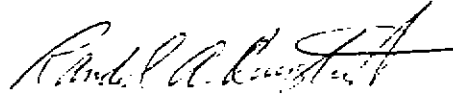
11. In thirteen glass loss claims reviewed in which the glass was repaired, the Company waived the insureds deductible. Although it is not a written procedure, the Company's practice is to waive the deductible when an insured chooses to have the glass repaired rather than replaced. However, waiving the insured's deductible is not a benefit specified in the policy. Therefore, some insureds may not be aware this benefit is available to them. The examiner recommends the Company change the policy language to specifically include the benefit being offered. **(CLAIMS)**

Examiner's Comments Reference Policyholder Treatment

Except as otherwise noted in this report, policyholders were generally treated correctly and fairly by the Company. Underwriting and rating practices appear to be fair and consistent. Claims appear to be investigated promptly and settled as soon as proper documentation is received from the claimants. Complaints were generally researched and handled in an expeditious manner and policyholder service appears to be timely and correct.

ACKNOWLEDGMENT

The cooperation and assistance rendered by the officers and employees of the Company during this examination is hereby acknowledged and appreciated.



Randal A. Overstreet, CIE
Market Conduct Examiner
Examiner-in-Charge
Utah Insurance Department